

Subgrantee Questions Regarding the PBA/PBO and FEMA Responses

1. This document is too much to read and comprehend.

FEMA: This is why we recommend the hiring of a service-approved biologist in the first place, who can read and understand document and language. The document was also very cumbersome to prepare and write, and this is why it took longer than planned.

2. I can't find the instructions that I need in the project worksheet (PW).

OES: Read the "general comments" near the end of the PW usually found after the "standard conditions".

3. What is a service-approved biologist?

FEMA: A Service-approved biologist is someone with "documented, verifiable experience." For example, someone that at Fish and Wildlife Service is known well, or someone that FWS have issued a section 10(a)(1)(A) permit to in the past, versus a first-year biology student or someone from out of state working as a seasonal. A biologist will know if he/she is approved for he/she should have had several work interactions with the service already and reached a comfortable level of confidence with/from the service.

OES: Questions regarding biologist qualifications should be directed to USFWS. Contact information is listed below.

USFWS Field Office	Section 7 Biologist	Phone	Email
Arcata Field Office	Amedee Brickey	707-822-7201	amedee_brickey@fws.gov
Sacramento Field Office	Daniel Russell, Supervisor	916-414-6600	daniel_russel@fws.gov
Ventura Field Office	Rick Farris	805-644-1766 x 316	rick_farris@fws.gov

4. We just built this project within the last couple of years and paid \$350,000 for mitigation. Will I need to do this again?

FEMA: If the mitigation is part of a biological opinion then chances are, they will have to live up to the obligation specified or agreed to in that opinion. Also, depending on the proposed project, there may be additional effects on the species and consequent additional mitigation required. The short answer is most probably yes.

5. We already completed the project. It was an emergency. What do I do? The project was a levee repair completed in December. The construction window for our listed species ended November 30.

FEMA: The Public Assistance Grant Program Officers from FEMA and OES need to address this issue first since the (late) declaration covers an incident period of the last couple of days of December. Any work performed prior to that probably is out of

eligibility. If the project was completed as a result of the declared disaster and it was completed according to the parameters described in FEMA's May 2006 Programmatic Biological Assessment, as amended, then the action may be covered. If the project was completed prior to the disaster or was not completed according to the parameters, then the project proponent would need to initiate individual consultation with NMFS and FWS for T & E species issues (only in the second instance we may consider funding of course, and once cleared).

6. A biologist hired by an applicant sent qualifications to Fish and Wildlife Service two weeks ago without any response from USFWS. The biologist has completed the surveys without knowing if they will be considered as qualified. The California red-legged frog sampling protocols cannot be met without sampling during the breeding season. It is a damaged sewer line and it is imperative that they complete it soon.

FEMA: The biological opinion for FEMA's 1646 and 1628 actions does not specify the need for protocol-level surveys for frogs; that determination would be made on a case-by-case basis by the appropriate FWS office. In these situations, a subgrantee should call the appropriate jurisdictional FWS office and explain the situation and ask them about the status of their request. If the survey was completed by a non-approved biologist it is of little or no use (considering the language in Appendix C, this is of more concern to me).

Appendix C, specific measure 7 for Amphibians requires scheduling "work" outside of the breeding season not surveys; surveys should be conducted according to the most recent protocol. So, if the current survey guidelines (available on the Sacramento USFWS Field Office's website) for California red-legged frog were followed, by a qualified biologist, then they are still in compliance.

7. How will USFWS know we have complied with the requirements? How is this information reported and who is responsible?

FEMA: Per the biological opinion, FEMA is required to submit reports to the FWS. The project proponent is required to submit data, as necessary, to FEMA through OES in order for FEMA to complete their reports. Additionally, since some actions will be submitted to the appropriate FWS office's for consultation, the FWS will be working with the applicant and through those activities, compliance issues will be addressed as needed.

OES: The subgrantee must copy OES and FEMA when submitting reports to USFWS. OES will also transmit an official copy to FEMA.

8. Our project is a “not-likely to affect” PW. Why do we have to meet conditions such as silt fencing?

FEMA: All projects that are NLAA or LAA must do all of the measures proposed by FEMA in the Programmatic BA in order to get one of those determinations. Without the measures, the project is no longer “not likely to adversely affect” a species. It is the measures, such as silt fencing, that got the project to that determination. Additionally, the state requirements for water quality drive a vast majority of the silt fencing issues.

9. We have a project that we wanted to start in a month. Why was this letter sent out so close to the end of our construction window?

FEMA: 5,400 (+/-) projects are undergoing review. It takes time. On the other end, I am not sure what “close to the end of construction window” really implies: if FEMA had to enter into an individual consultation for the majority. If not all, of these projects, the “holding” period would have been much longer.